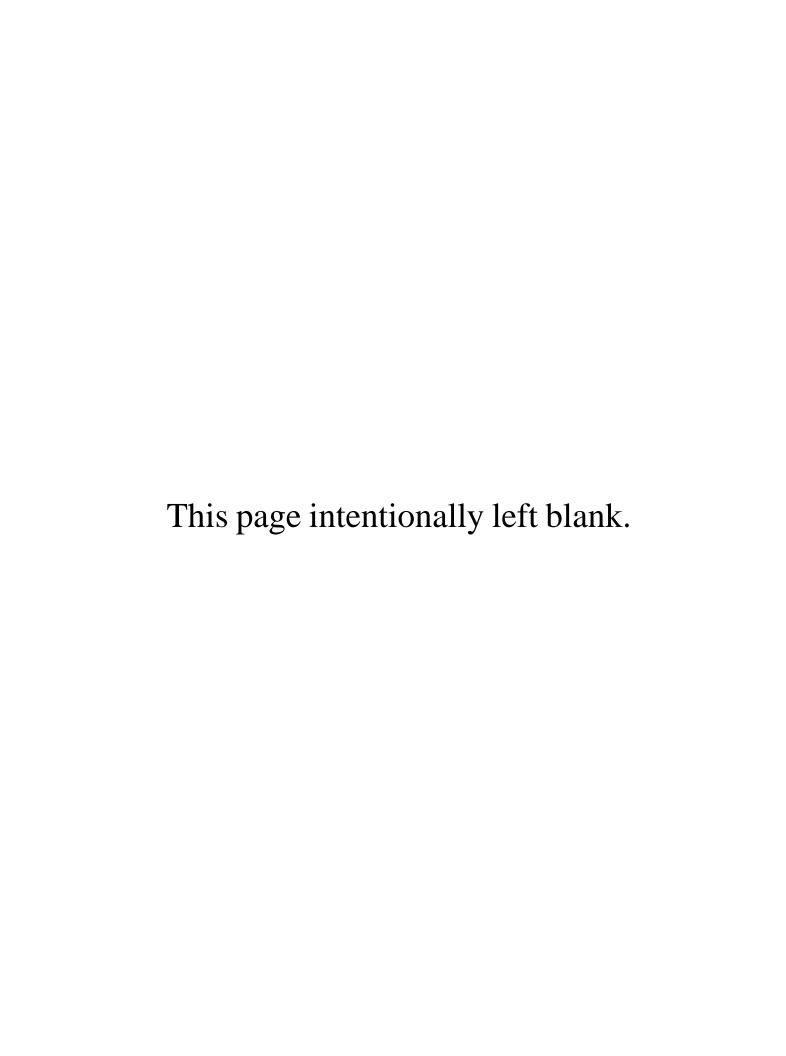
# Exhibit B



#### **DRAFT RESOLUTION**

# Before the Planning Commission in and for the County of Monterey, State of California

In the matter of the application of:

5B SMD LLC (PLN210066)

#### **RESOLUTION NO. ---**

Resolution by the Monterey County Planning Commission:

- 1. Finding that the project involves the demolition of an existing single family dwelling and construction of a new single family dwelling which qualifies for a Class 1 and Class 3 Categorical Exemption pursuant to Sections 15301(l) and 15303(a) of the CEQA Guidelines, and there are no exceptions pursuant to Section 15300.2; and
- 2. Approving a Combined Development Permit consisting of a:
  - a. Coastal Administrative Permit and Design Approval to allow the demolition of a 3,446 square foot onestory single family dwelling with a 558 square foot detached garage, and construction of a 6,590 square foot two-story single family dwelling with an attached 1,400 square foot garage and mechanical room;
  - b. Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat area (remnant dune habitat);
  - c. Coastal Development Permit to allow development within 750 feet of a positive archaeological resource; and
  - d. Coastal Development Permit to allow ridgeline development.

[PLN210066 – 5B SMD LLC, 3141 17 Mile Drive, Pebble Beach, Del Monte Forest Land Use Plan (APN: 008-261-003-000)]

The 5B SMD LLC Combined Development Permit (PLN210066) came on for a public hearing before the Monterey County Planning Commission on January 11, 2023. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Monterey County Planning Commission finds and decides as follows:

#### **FINDINGS**

1. FINDING:

**CONSISTENCY** – The project, as proposed and conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.

**EVIDENCE:** 

- The project has been reviewed for consistency with the text, policies, and regulations in:
  - 1982 Monterey County General Plan (General Plan);
  - Del Monte Forest Land Use Plan (DMF LUP);
  - Monterey County Coastal Implementation Plan, Part 5, Regulations for Development in the Del Monte Forest Land Use Plan Area (DMF CIP); and
  - CIP, Part 1, Monterey County Coastal Zoning Ordinance (Title 20).

No conflicts were found to exist that are not remedied through direction of the codes. The subject property is located within the Coastal Zone; therefore, the 2010 Monterey County General Plan does not apply.

- b) Allowed Use. The subject property is located at 3141 17 Mile Drive, Pebble Beach, Del Monte Forest Land Use Plan area (APN: 008-261-003-000). The subject parcel is zoned Low Density Residential with a maximum gross density of 1.5 acres/unit and a Design Control Overlay, Coastal Zone or "LDR/1.5-D(CZ)". Per Title 20, sections 20.14.040.A, a single family dwelling is an allowed use. The project involves demolition of an existing 3,446 square foot single family dwelling and construction of a 6,590 square foot two-story single family dwelling with an attached 1,400 square foot garage and mechanical room within the general footprint of the existing structure. Therefore, the project is an allowed use.
- c) Lot Legality. The 1.7324 acre parcel (APN: 008-261-003-000), is shown in its current configuration and size as "Lot 37A" of the 1972 Assessor's Map of El Pescadero Ro., Block 151A, Book 8 Page 26. Therefore, the County recognizes the subject property as a legal lot of record.
- d) Design. The project is subject to the Design Control Zoning District ("D" district) standards contained in Title 20 Chapter 20.44, which is intended to regulate the location, size, materials and colors of the structures to assure protection of the public viewshed and neighborhood character. The development includes colors and materials consisting of gray non-reflective aluminum roofing, gray smooth stucco exterior walls, stone veneer and cedar wood siding accents, and black metal clad wood doors and windows (see attached colors and materials). Although the homes within the area have a variety of architectural styles, the design and architectural elements of the new residence are consistent with the neighborhood character and will not detract the visual integrity of the site.
- e) Review of Development Standards. The LDR zoning district requires setbacks for main structures to be a minimum of 30 feet (front) and 20 feet (rear and side) and a maximum 30-foot height limitation. The subject property is a corner lot that fronts along two roads, 17-Mile Drive and Signal Hill Road. In accordance with DMF CIP Section 20.147.070.B.13, the setback from 17 Mile Drive is 100 feet whereas

the front from Signal Hill Road is 30 feet. The newly constructed single family dwelling and attached garage is sited to exceed the minimum required front and side setbacks and while meeting the rear setback of 20 feet. As illustrated in the attached plans, the height of the new two-story single family dwelling will be at 27 feet and 1 inch. To confirm the project setbacks align with County regulations, HCD-Engineering Services applied a condition of approval (No. 17) requiring a boundary survey prior to foundation setting which requires a professional land surveyor provide evidence to the County Surveyor of conformance to the setbacks shown on the approved Site Plan. The maximum building site coverage in the LDR district is 15% (or 8,649 square feet) and floor area ratio is 17.5% (or 10,090 square feet). In accordance with the attached plans, the project will result in 13.5% (7,795 square feet) building site coverage and a floor area ratio of 14.8% (7,990 square feet). The project meets the building site coverage and floor area ratio regulations. As summarized above, the project complies with the development standards listed within this zoning district per Title 20 Section 20.14.060.

- f) Environmentally Sensitive Habitat. As demonstrated in Finding 4, the project is designed to avoid impacts to environmentally sensitive habitat areas (ESHA) on the parcel and through voluntary restoration of previously degraded dune habitat, the project is consistent with the ESHA policies and regulations within the DMF LUP and CIP.
- g) <u>Visual Resources/Ridgeline Development.</u> As demonstrated in Finding 5, the project is located and designed to avoid significant adverse impacts on public views and scenic character of the area.
- h) <u>Cultural Resources.</u> The project site is mapped as a high archaeological sensitive area and as demonstrated in Finding 6, the project has been found compatible with the objective of the DMF LUP Cultural Resources Key Policy.
- i) <u>Public Access</u>. As demonstrated in Finding 8, the development is consistent with public access policies of the DMF LUP and CIP.
- j) Land Use Advisory Committee (LUAC) Review. In accordance with the LUAC procedure guidelines adopted by the Monterey County Board of Supervisors, the project was referred to the Del Monte Forest LUAC for review and recommendation to the Planning Commission. On the September 16, 2021, the LUAC held a duly noticed meeting and the applicant presented revised plans which reduced the massing and roofline heights. The LUAC unanimously recommended the project for approval (8 ayes, 0 noes) provided that staff confirms that the project complies with the County's ridgeline development requirements. As demonstrated in Finding 5, ridgeline development cannot be avoided and the project has been designed to avoid a substantial adverse visual impact.
- k) The application, plans and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development are found in Project File PLN210066.
- **2. FINDING: SITE SUITABILITY** The site is physically suitable for the proposed use.

- EVIDENCE: a) The project includes the demolition and construction single family dwelling and the continuance of the established use within an existing residential neighborhood. The project was reviewed by HCD-Planning, HCD-Engineering Services, HCD-Environmental Services, Pebble Beach Community Services District and the Environmental Health Bureau. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
  - b) Potential impacts to forest, biological, archaeological and historical resources as well as hazards relative to soil/slope stability were identified. The following reports have been prepared and submitted with the application:
    - Tree Assessment/Forest Management Plan (LIB210107) prepared by Frank Ono, Salinas, CA with revisions on June 30, 2021.
    - Biological Assessments (LIB210109) prepared by Patrick Regan, Regan Biological & Horticultural Consulting, Carmel Valley, CA on February 20, 2021 and May 6, 2021.
    - Preliminary Cultural Resources Report and Phase II Archaeological Assessment (LIB210108) prepared by Susan Morley, Marina on March 20, 2021 and October 2022, respectively.
    - Historical Assessment (LIB210111) prepared by Anthony Kirk, Santa Barbara, CA on October 19, 2020.
    - Geotechnical Report (LIB210110) prepared by Grice Engineering, Inc., Salinas on April 28, 2021.

County staff independently reviewed these reports and concurs with their conclusions. There are no further physical or environmental constraints that would indicate that the site is not suitable for the use proposed. Implementation of Condition No. 9 requires that all development associated with this Combined Development Permit shall be in accordance with these reports.

c) The application, plans and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development are found in Project File PLN210066.

#### 3. FINDING:

**HEALTH AND SAFETY** – The establishment, maintenance, or operation of the project applied for will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

#### **EVIDENCE**: a)

- The project was reviewed by HCD-Planning, HCD-Engineering Services, HCD-Environmental Services, Pebble Beach Community Services District and the Environmental Health Bureau. Conditions have been recommended, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
- b) Necessary public facilities are existing on the subject property.
  California American Water Company is the domestic water purveyor

- and wastewater services are provided by Carmel Area Wastewater District through the Pebble Beach Community Services District. The project is not expected to require additional water credits because the water fixture count is balanced between the existing and those required by the replacement single family dwelling to require the same total unit count. Therefore, both potable water and wastewater services can serve the project.
- c) Preliminary civil plans were not processed as a part of the planning permit but for the construction permit, the applicant will be required to comply with erosion control regulations as outline in Chapter 16.12. HCD-Engineering Services reviewed the project submittal which included a Construction Management Plan (CMP). Although most of the roads in the Pebble Beach area are private roads, HCD-Engineering Services reviewed potential increased traffic on the public roads that will need to be taken to get to the project site in Pebble Beach. Implementation of the CMP will minimize traffic on public roads.
- d) The application, plans, and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in HCD-Planning File No. PLN210066.

#### 4. FINDING:

ENVIRONMENTALLY SENSITIVE HABITAT AREA – The project minimizes impacts on environmentally sensitive habitat areas (ESHA) in accordance with the applicable goals and policies of the 1982 Monterey County General Plan (1982 GP) and Del Monte Forest Land Use Plan (DMF LUP) as well as the regulations contained in the Monterey County Coastal Implementation Plan, Part 5 (DMF CIP) and Part 1 (Title 20).

**EVIDENCE:** a)

- Identification of ESHA. DMF LUP Policy 8 states that development adjacent to ESHA shall be compatible with long-term maintenance of the habitat area, and such land use and development shall be sited and designed to prevent impacts that would significantly degrade the habitat areas. In accordance with DMF CIP Section 20.147.040.B.1, biological assessments (see Finding 2, Evidence "b") were submitted with the project application. These reports identified that the subject property is located within the southern terminus of the Asilomar Dunes complex and contains Dune scrub and Monterey Cypress woodland habitat, which are both natural plant communities considered ESHA. The majority of the site has been heavily invaded by ice plant. However, there are localized areas that contain intact habitat. Pursuant to Title 20 Section 20.14.030.E, this project requires a Coastal Development Permit because it is within 100 feet of identified ESHA.
- b) Special Status Plant Species. On February 8, 2020, the project biologist, Patrick Regan, conducted a site visit and noted that the property could potentially support several rare, threatened or endangered plant species. On April 29, 2021, during the appropriate blooming period, Regan revisited the site to confirm or deny the presence or absence of Beach Layia (*Layia carnosa*), Tidestrom's lupin (*Lupinus tidestromii*), Monterey Spineflower (*Chorizanthe pungens* var. *pungens*), and Menzies wallflower (*Erysimum menziesii*

- ssp menziesii). In order to confirm these species could be identified on the site, Regan first visited nearby locations where they are known to be present; 3 out of the 4 were observed. Regan surveyed the building pad, surrounding dune features and the property boundaries. The species listed above were not present onsite and no new species were identified.
- c) Special Status Animal Species. Regan noted that the Northern California legless-lizard (*Anniella pulchra*) and Smith's blue butterfly (*Euphilotes enoptes smithi*) may nest, occupy or forage on the property. After his site visits, Regan concluded that the host plant for the Smit's blue butterfly, sea cliff buckwheat (*Eriogonum parvifolium*), is located approximately 600 feet from the development on an adjacent property. As such, impacts from the project would be low. On the other hand, protective fencing should be installed prior to site disturbance to ensure accidental impacts to the Northern California legless-lizard do not occur.
- Compatibility with ESHA Requirements of Del Monte Forest. The d) project is located on approximately the same footprint as the existing development and does not expand significantly into any area considered ESHA. A small portion of the house, the driveway, walkways and retaining walls will encroach into previously graded and ecologically degraded habitat resulting from the creation of the building pad and installation of ornamental landscaping in 1956 as well as the unfortunate invasion of the dense non-native ice plant mats. One small area of the upper floor cantilevers over sand dune but does not impact it. Consistent with the development standards listed in DMF CIP Section 20.147.040.C.1 and 2, Regan recommends installation of protection fencing prior site disturbance and removal of ice plant. The recommendations of Regan's reports have been incorporated in the project through Condition No. 9, which requires all development occur in accordance with the reports' recommendations. Standard conditions requiring installation of tree and root protection (Condition No. 6), grading and easement staking (Condition No. 12), and conducting a migratory bird nesting survey (Condition No. 14) have also been incorporated. Therefore, the project is consistent with the DMF LUP and CIP biological resource policies and regulations and the development would not cause significant impact to ESHA in this case.
- e) Voluntary Restoration. Although removal of ESHA is avoided, the project includes voluntary rehabilitation of degraded habitat. The preliminary Restoration Plan (as attached to this resolution) identifies 3 separate restoration areas which would result in approximately 7,754 square feet of restored Dune scrub. Regan concludes that this would encourage the germination and recovery of native dune species. To ensure successful restoration, Condition No. 15 has been incorporated requiring submittal and approval of a finalized restoration plan to HCD-Planning prior to issuance of construction permits and submittal of evidence of successful restoration from a qualified biologist prior to final of construction permits. In addition, Condition No. 16 requires the owner/applicant to receive approval

- and install landscape planting consistent with biological resource policies and regulations for Del Monte Forest.
- f) Conservation Easement. DMF LUP Policy 13 and DMF CIP Section 20.147.040.C.3.b requires the protection of ESHA through permanent open space conservation and scenic easement (CSE) conveyed to the Del Monte Forest Foundation (DMFF). As such, Condition No. 10 has been incorporated requiring the owner applicant convey the areas outside of the approved development footprint to the DMFF through a CSE deed. The conveyance will allow maintenance of existing intact ESHA as well as the restored areas discussed in Evidence "d" above. In addition, this easement area would be contiguous to existing areas conveyed over ESHA on adjacent parcels.
- g) The application, plans, and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in HCD-Planning File No. PLN210066.

#### 5. FINDING:

#### SCENIC AND VISUAL RESOURCES/RIGELINE

**DEVELOPMENT** – The project, as proposed and conditioned, is compatible with the existing scenic and visual resources of Del Monte Forest and is consistent with the applicable scenic and visual resource protection policies set forth in the Del Monte Forest Land Use Plan (DMF LUP) and the regulations contained in Monterey County Coastal Implementation Plan, Part 5 (DMF CIP) and Part 1 (Title 20). The ridgeline development, as proposed and conditioned, will not create a substantially adverse visual impact when viewed from a common public viewing area and no alternative location exists on the subject property which would allow a reasonable development without the potential for ridgeline development.

#### **EVIDENCE:** a)

- <u>Identification of Viewshed.</u> DMF LUP Figure 3 identifies that the subject property is within the public viewshed of 17-Mile Drive and Fanshell Beach. On December 23, 2023, staff confirmed that the subject property is visible from 17-Mile Drive and Fanshell Beach. Due to distance, topography and existing vegetation, only a portion of the site was observed from Seal Rock Beach.
- b) Identification of Ridgeline Development. On December 23, 2023, staff observed the existing visual conditions of the site as well as staking and flagging of the proposed development. The elevation of 17-Mile Drive roadway ranges from approximately 24 to 35 feet above sea level (ASL) whereas the building pad graded and leveled in 1956 ranges in from 138.3 to 141.5 feet ASL. Although both the existing and new development are sited greater than 100 feet from 17-Mile Drive, the existing topography and elevation difference is such that ridgeline development when viewed from 17-Mile Drive, Fanshell Beach and Seal Rock Beach cannot be avoided. Pursuant to Title 20 Section 20.66.010.C, this Combined Development Permit includes a Coastal Development Permit to allow ridgeline development.
- c) Compatibility with Scenic and Visual Resource Requirements of Del Monte Forest. DMF LUP Policy 48 states that development within visually prominent settings shall be sited and designed to avoid blocking or having a significant adverse impact on significant public

views. This policy is implemented through DMF CIP Section 20.147.070.B which requires incorporation of development standards to ensure the siting and design of the structures minimizes impacts on public views by harmonizing with the natural setting, being subordinate and blending into the environment and maintaining a minimum setback of 50 feet from such setting. Title 20 Section 20.06.1275 defines "substantial adverse visual impact" as "a visual impact which, considering the condition of the existing viewshed, the proximity and duration of view when observed with normal unaided vision, causes an existing visual experience to be materially degraded." As described in Finding 1, Evidence "b" and "e" and as illustrated in the attached plans, redevelopment of the subject property will occur within the existing development footprint. When viewed from west, the primary 2<sup>nd</sup> story elements are clearstory windows topped with a metal fascia which extends from 4 to almost 7 feet above the first story. The remaining 2<sup>nd</sup> story elements is a section with an office, bedrooms, bathrooms and a sitting room located towards the east of the property, furthest away from the most visually sensitive portion of the site. When viewed from the west, this area extends above the 1<sup>st</sup> story by from approximately 9 to 11 feet. The architectural style incorporates flat roofing and wide elements evoking a low-lying horizontal structure. Avoiding vertical bulk and limiting the 2<sup>nd</sup> story elements results in avoiding an increased visual impact beyond what exists. Further, the exterior finish of the existing structure includes a white stucco body with a brown wooden roof, resulting in a clear contrast with the foreground and background. Conversely, and as described in Finding 1, Evidence "d", the subdued colors and materials of the new structure will blend with the surrounding environment. The project is designed to be subordinate to and blend with the surrounding environment and neighborhood character and will not block significant public views of the beach, ocean or the dunes. Therefore, the project would not result in a substantial adverse visual impact and is consistent with the DMF LUP policies and DMF CIP regulations for scenic and visual resources.

d) Ridgeline Development and Substantially Adverse Visual Impact. Title 20 Section 20.06.950 defines "ridgeline development" as development on the "crest of a hill which has the potential to create a silhouette or other substantially adverse impact when viewed from a common public viewing area." As described in preceding Evidence "b", the existing and proposed development is considered ridgeline development from 17-Mile Drive, Fanshell Beach and Seal Rock Beach as portions of the structure would create a silhouette against the sky. However, findings allowing ridgeline development set forth in Title 20 Section 20.66.010.D can be made in this particular case. As demonstrated in Evidence "c" above, the project will not result in a substantial visual impact. As demonstrated in Evidence "b" above and Finding 4, ridgeline development cannot be avoided due to existing topography and site constraints relative to ESHA.

e) The application, plans, and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in HCD-Planning File No. PLN210066.

6. FINDING: CULTURAL RESOURCES – The siting, location, size and design of the development ensures that Del Monte Forest's cultural

a known archaeological resource.

resources are maintained, preserved, and protected.

EVIDENCE: a)

Identification of Cultural Resources. In accordance with DMF LUP
Policy 58 and DMF CIP Section 20.147.080.B, Archaeological
Reports (see Finding 2, Evidence "b") were submitted with the
application. The reports identified that the entire subject property was
methodically inspected for evidence of prehistoric or historic
materials. The survey concluded that none of the indicators expected
of a prehistoric archaeological or historical resource in this region
were found and the closest prehistoric site is approximately 400 feet
away from the subject property. Pursuant to DMF CIP Section
20.147.080.A.1, this Combined Development Permit includes a
Coastal Development Permit to allow development within 750 feet of

- Compatibility with Cultural Resource Requirements of Del Monte b) Forest. A Phase I Archaeological Assessment was prepared March 2021. At that time, the project included a slab foundation and due to loose soils, extensive sub-excavation would be required. As such, the archaeologist recommended a pre-construction meeting with the demolition and construction crew and monitoring by an archaeologist and Tribal Cultural monitor. In April 2022, revised plans were prepared and submitted changing the foundation design to helical piers and grade beams resulting in limited grading (approximately 100 cubic yards (see Finding 3, Evidence "c"). A Phase II Archaeological Assessment was prepared October 2022 reevaluating the project with the helical pier foundation. Based on the reduced ground disturbance and analysis of boring soils obtained by the project geotechnical engineer, the archaeologist no longer finds monitoring necessary.
- c) Conditions of Approval. The potential for inadvertent impacts to cultural resources is addressed through incorporation of 2 standard conditions of approval. Condition No. 3 requires construction be halted if archaeological resources are accidentally uncovered and necessary steps be taken if human remains are found. Condition No. 9 requires that all development occur in accordance with the recommendations of the Phase I and II assessments (construction training and halting construction if previously unidentified resources are discovered).
- d) The application, plans, and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in HCD-Planning File No. PLN210066.
- 7. **FINDING: CEQA (Exempt)** The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

# **EVIDENCE:** a) California Environmental Quality Act (CEQA) Guidelines Sections 15301 (e) and 15303 (a) categorically exempt demolition of a single family dwelling and construction of single family dwellings in residential zones.

- b) The demolition of an existing single family dwelling and construction of a 6,590 square foot two-story single family dwelling with an attached 1,400 square foot garage and mechanical room are consistent with these exemptions. Therefore, the project qualifies for a Class 1 and Class 3 categorical exemption pursuant to Section 15301 (e) and 15303 (a) of the CEQA guidelines.
- c) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. The project does not involve a designated historical resource (see Finding 2, Evidence b), a hazardous waste site, development located within view of a State scenic highway, unusual circumstances that would result in a significant effect or development that would result in a cumulative significant impact. Although 17-Mile Drive is considered scenic in the LUP, it is not a State scenic highway. No adverse environmental effects were identified during staff review of the development application.
- d) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development found in Project File PLN210066.

#### 8. FINDING:

**PUBLIC ACCESS** – The project is in conformance with the public access and recreation policies of the Coastal Act (specifically Chapter 3 of the Coastal Act of 1976, commencing with Section 30200 of the Public Resources Code) and applicable Local Coastal Program, and does not interfere with any form of historic public use or trust rights.

#### **EVIDENCE:**

- a) No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in DMF CIP, Section 20.147.130 can be demonstrated.
- b) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.
- c) The subject property is not described as an area where the Local Coastal Program requires physical public access (Figure 8, Major Public Access and Recreational Facilities, in the DMF LUP).
- d) The subject project site is not identified as an area where the Local Coastal Program requires visual public access (Figure 3, Visual Resources, in the DMF LUP).
- e) Based on the project location, and its topographical relationship to visual public access points in the area, the development proposal will not interfere with visual access along 17-Mile Drive or from Fanshell Beach. Consistent with DMF LUP Policies 123 and 137, the proposed development will not block significant public views toward the ocean and will not adversely impact the public viewshed or scenic character in the project vicinity.
- f) The application, plans and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development are found in Project File PLN210066.

- 9. FINDING:
- **NO VIOLATIONS** The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property.
- **EVIDENCE:** a)
- Staff reviewed Monterey County HCD-Planning and HCD-Building Services records and is not aware of any violations existing on subject property.
- b) The application, plans and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed development are found in Project File PLN210066.
- 10. FINDING:
- **APPEALABILITY** The decision on this project may be appealed to the Board of Supervisors and the Coastal Commission.
- EVIDENCE: a)
- <u>Board of Supervisors</u>. Pursuant to Title 20 Section 20.86.030, an appeal may be made to the Board of Supervisors by any public agency or person aggrieved by a decision of an Appropriate Authority other than the Board of Supervisors.
- b) <u>Coastal Commission</u>. Pursuant to Title 20 Section 20.86.080, a project is subject to appeal by/to the California Coastal Commission because it involves development located between the sea and the first through public road paralleling the sea (i.e., State Route/Highway 1).

#### **DECISION**

**NOW, THEREFORE**, based on the above findings and evidence, the Planning Commission does hereby:

- 1. Find that the project involves the demolition of an existing single family dwelling and construction of a new single family dwelling, which qualifies for a Class 1 and Class 3 Categorical Exemption pursuant to Sections 15301 (l) and 15303 (a) of the CEQA Guidelines, and there are no exceptions pursuant to Section 15300.2; and
- 2. Approve a Combined Development Permit consisting of a:
  - a. Coastal Administrative Permit and Design Approval to allow the demolition of a 3,446 square foot one-story single family dwelling with a 558 square foot detached garage, and construction of a 6,590 square foot two-story single family dwelling with an attached 1,400 square foot garage and mechanical room;
  - b. Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat area (remnant dune habitat);
  - c. Coastal Development Permit to allow development within 750 feet of a positive archaeological resource; and
  - d. Coastal Development Permit to allow ridgeline development.

All of which are in general conformance with the attached sketch and subject to the attached conditions, all being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED this 11 <sup>th</sup> day of January, 2023, upon motion of Commissioner, seconded by Commissioner, by the following vote:						
AYES: NOES: ABSENT: ABSTAIN:						
Craig Spencer, Secretary						
COPY OF THIS DECISION MAILED TO APPLICANT ON						
THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.						
IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE						
THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE FINAL LOCAL ACTION NOTICE (FLAN) STATING THE DECISION BY THE FINAL DECISION MAKING						

FRONT STREET, SUITE 300, SANTA CRUZ, CA.

BODY, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

#### **NOTES**

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from Monterey County HCD-Planning and HCD-Building Services offices in Salinas.

## **County of Monterey HCD Planning**

# DRAFT Conditions of Approval/Implementation Plan/Mitigation Monitoring and Reporting Plan

PLN210066

#### 1. PD001 - SPECIFIC USES ONLY

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: This Combined Development Permit (PLN210066) allows the demolition of a single family dwelling and detached garage, construction of a 6,590 square foot two-story single family dwelling with an attached 1,400 square foot garage within environmentally sensitive habitat areas, in proximity of a positive archaeological resource, and resulting in ridgeline development. The property is located at 3141 17-Mile Drive, Pebble Beach (Assessor's Parcel Number 008-261-003-000), Del Monte Forest Land Use Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the HCD Chief of Planning. use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (HCD - Planning)

Compliance or Monitoring Action to be Performed:

The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

Print Date: 1/3/2023 10:01:18AM Page 1 of 12

#### 2. PD002 - NOTICE PERMIT APPROVAL

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure:

The applicant shall record a Permit Approval Notice. This notice shall state:

"A Combined Development Permit (Resolution Number \_\_\_\_\_\_) was approved by the Monterey County Planning Commission for Assessor's Parcel Number 008-261-003-000 on January 13, 2023. The permit was granted subject to 18 conditions of approval which run with the land. A copy of the permit is on file with Monterey County HCD - Planning."

Proof of recordation of this notice shall be furnished to the Chief of HCD Planning prior to issuance of grading and building permits, Certificates of Compliance, or commencement of use, whichever occurs first and as applicable. (HCD - Planning)

Compliance or Monitoring Action to be Performed:

Prior to the issuance of grading and building permits, certificates of compliance, or commencement of use, whichever occurs first and as applicable, the Owner/Applicant shall provide proof of recordation of this notice to the HCD - Planning.

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#### 3. PD003(B) - CULTURAL RESOURCES POSITIVE ARCHAEOLOGICAL REPORT

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure:

If archaeological resources or human remains are accidentally discovered during construction, the following steps will be taken:

There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the coroner of the county in which the remain are discovered must be contacted to determine that no investigation of the cause of death is required.

If the coroner determines the remains to be Native American:

- The coroner shall contact the Native American Heritage Commission and HCD -Planning within 24 hours.
- The Native American Heritage Commission shall identify the person or persons from a recognized local tribe of the Esselen, Salinan, Costonoans/Ohlone and Chumash tribal groups, as appropriate, to be the most likely descendant.
- The most likely descendant may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.9 and 5097.993, Or

Where the following conditions occur, the landowner or his authorized representatives shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance:

- The Native American Heritage Commission is unable to identify a most likely descendant or the most likely descendant failed to make a recommendation within 24 hours after being notified by the commission.
- 2. The descendant identified fails to make a recommendation; or
- The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner. (HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading or building permits or approval of Subdivision Improvement Plans, whichever occurs first, the Owner/Applicant, per the archaeologist, shall submit the contract with a Registered Professional Archaeologist for on-call archaeological services should resources be discovered during construction activities. Submit the letter to the Director of the HCD – Planning for approval.

Prior to the issuance of grading or building permits and/or prior to the recordation of the occurs first, the final/parcel map, whichever Owner/Applicant requirements of this condition as a note on all grading and building plans, on the Subdivision Improvement Plans, in the CC&Rs, and shall be included as a note on an additional sheet of the final/parcel map.

Prior to Final, the Owner/Applicant, per the Archaeologist , shall submit a report or letter from the archaeologist summarizing their methods, findings, and recommendations if their services are needed during construction or if no resources were found.

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#### 4. PD005(A) - NOTICE OF EXEMPTION

Responsible Department: RMA-Planning

Condition/Mitigation Pursuant to CEQA Guidelines § 15062, a Notice of Exemption shall be filed for this project. The filing fee shall be submitted prior to filing the Notice of Exemption.

(HCD-Planning)

Compliance or Monitoring Action to be Performed:

After project approval, the Owner/Applicant shall submit a check, payable to the County of Monterey, to the Director of HCD - Planning.

#### 5. PD006(A) - CONDITION COMPLIANCE FEE

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure:

The Owner/Applicant shall pay the Condition Compliance fee, as set forth in the fee schedule adopted by the Board of Supervisors, for the staff time required to satisfy conditions of approval. The fee in effect at the time of payment shall be paid prior to clearing any conditions of approval.

Compliance or Monitoring Action to be Performed:

Prior to clearance of conditions, the Owner/Applicant shall pay the Condition Compliance fee, as set forth in the fee schedule adopted by the Board of Supervisors.

#### 6. PD011 - TREE AND ROOT PROTECTION

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure:

Trees which are located close to construction site(s) shall be protected from inadvertent damage from construction equipment by fencing off the canopy driplines and/or critical root zones (whichever is greater) with protective materials, wrapping trunks with protective materials, avoiding fill of any type against the base of the trunks and avoiding an increase in soil depth at the feeding zone or drip-line of the retained trees. Said protection, approved by certified arborist, shall be demonstrated prior to issuance of building permits subject to the approval of Chief of Planning. If there is any potential for damage, all work must stop in the area and a report, with mitigation measures, shall be submitted by certified arborist. Should any additional trees not included in this permit be harmed, during grading or construction activities, in such a way where removal is required, the owner/applicant shall obtain required permits. (HCD - Planning)

Compliance or Monitoring Action to be Performed:

Prior to issuance of grading and/or building permits, the Owner/Applicant shall submit evidence of tree protection to HCD - Planning for review and approval.

During construction, the Owner/Applicant/Arborist shall submit on-going evidence that tree protection measures are in place through out grading and construction phases. If damage is possible, submit an interim report prepared by a certified arborist.

Prior to final inspection, the Owner/Applicant shall submit photos of the trees on the property to HCD-Planning after construction to document that tree protection has been successful or if follow-up remediation or additional permits are required.

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#### 8. PD014(B) - LIGHTING-EXTERIOR LIGHTING PLAN (VS & RIDGELINE)

Responsible Department:

RMA-Planning

Condition/Mitigation **Monitoring Measure:** 

All exterior lighting shall be unobtrusive, down-lit, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. Exterior lighting shall have recessed lighting elements. Exterior light sources that would be directly visible from when viewed from a common public viewing area, as defined in Section 21.06.195, are prohibited. The applicant shall submit three (3) copies of exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The lighting shall comply with the requirements of the California Energy Code set forth in California Code of Regulations Title 24 Part 6. The exterior lighting plan shall be subject to approval by the Director of HCD - Planning, prior to issuance of building permits.

(HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of building permits, the Owner/Applicant shall submit three copies of the lighting plans to HCD - Planning for review and approval. Approved lighting plans shall be incorporated into final building plans.

Prior to final/occupancy, staff shall conduct a site visit to ensure that the lighting has been installed according to the approved plan.

On an on-going basis, the Owner/Applicant shall ensure that the lighting is installed and maintained in accordance with the approved plan.

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#### 9. PD016 - NOTICE OF REPORT

Responsible Department:

RMA-Planning

Condition/Mitigation Monitoring Measure:

Prior to issuance of building or grading permits, a notice shall be recorded with the Monterey County Recorder which states:

"A Tree Assessment/Forest Management Plan (Library No. LIB210107), was prepared by Frank Ono on June 30, 2021 and is on file in Monterey County HCD - Planning. All development shall be in accordance with this report.

A Preliminary Cultural Resources Report and Phase II Archaeological Assessment (Library No. LIB210108), were prepared by Susan Morley on March 20, 2021 and October 2022 and are on file with Monterey County HCD - Planning. All development shall be in accordance with this report.

Biological Assessments (Library No. LIB210109), were prepared by Patrick Regan on February 20, 2021 and May 6, 2021 and are on file with Monterey County HCD - Planning. All development shall be in accordance with this report.

A Geotechnical Report (Library No. LIB210110), was prepared by Grice Engineering on April 28, 2021 and is on file in Monterey County HCD - Planning. All development shall be in accordance with this report."

(HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading and building permits, the Owner/Applicant shall submit proof of recordation of this notice to HCD - Planning.

Prior to occupancy, the Owner/Applicant shall submit proof, for review and approval, that all development has been implemented in accordance with the report to the HCD - Planning.

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#### 10. PD022(B) - EASEMENT-CONSERVATION & SCENIC IN THE DEL MONTE FOREST

Responsible Department:

RMA-Planning

Condition/Mitigation
Monitoring Measure:

A conservation and scenic easement shall be conveyed to the Del Monte Forest Conservancy over those portions of the property where environmentally sensitive habitats, remnant native sand dune habitats, habitats of rare, endangered and sensitive native plants and animals, and visually prominent areas exist in accordance with the procedures in Monterey County Code § 20.64.280.A. The easement conveyance shall include funding adequate to ensure the management and protection of the easement area over time. The easement shall be developed in consultation with a certified professional and the Del Monte Forest Conservancy Inc. A Subordination Agreement shall be required, where necessary. These instruments shall be subject to approval by the County as to form and content, shall provide for enforcement, if need be, by the County or other appropriate agency, and name the County as beneficiary in event the Conservancy is unable to adequately manage these easements for the intended purpose of scenic and visual resource protection. An easement deed shall be submitted to, reviewed, and approved by the Director of HCD - Planning and the Executive Director of the California Coastal Commission, and accepted by the Board of Supervisors prior to recording the parcel/final map or prior to issuance of grading and building permits. (HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to recording the parcel/final map or prior to the issuance of grading and building permits, the Owner/Applicant/Certified Professional shall submit the conservation and scenic easement deed and corresponding map, showing the exact location of the easement on the property along with the metes and bound description developed in consultation with a certified professional, to the to the Del Monte Forest Conservancy for review and approval.

Prior to recording the parcel/final map or prior to the issuance of grading and building permits, the Owner/Applicant/Certified Professional shall submit the conservation and scenic easement deed and corresponding map, showing the exact location of the easement on the property along with the metes and bound description developed in consultation with a certified professional, to HCD - Planning for review and approval.

Prior to recording the parcel/final map or prior to the issuance of grading and building permits, the Owner/Applicant, shall submit a signed and notarized Subordination Agreement, if required, to HCD - Planning for review and approval

Prior to or concurrent with recording the parcel/final map, prior to the issuance of grading and building permits, or commencement of use, the Owner/Applicant shall record the deed and map showing the approved conservation and scenic easement. Submit a copy of the recorded deed and map to HCD-Planning.

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#### 11. PD041 - HEIGHT VERIFICATION

Responsible Department:

RMA-Planning

Condition/Mitigation Monitoring Measure:

The applicant shall have a benchmark placed upon the property and identify the benchmark on the building plans. The benchmark shall remain visible on-site until final building inspection. The applicant shall provide evidence from a licensed civil engineer or surveyor to the Director of HCD - Building Services for review and approval, that the height of the structure(s) from the benchmark is consistent with what was approved on the building permit associated with this project. (HCD - Planning and HCD - Building Services)

Compliance or Monitoring Action to be Performed:

Prior to the issuance of grading or building permits, the Owner/Applicant shall have a benchmark placed upon the property and identify the benchmark on the building plans. The benchmark shall remain visible onsite until final building inspection.

Prior to the foundation pre-pour inspection, the Owner/Applicant shall provide evidence from a licensed civil engineer or surveyor, to the Director of HCD - Building Services for review and approval, that the height of first finished floor from the benchmark is consistent with what was approved on the building permit.

Prior to the final inspection, the Owner/Applicant/Engineer shall provide evidence from a licensed civil engineer or surveyor, to the Director of HCD - Building Services for review and approval, that the height of the structure(s) from the benchmark is consistent with what was approved on the building permit.

#### 12. PD042 - GRADING/EASEMENT STAKING

Responsible Department: RMA-Planning

Condition/Mitigation **Monitoring Measure:** 

The conservation and scenic easement(s) and proposed grading shall be staked with 18" stakes at intervals as necessary to clearly delineate the easement and grading. The staking shall be consistent with recorded easement lines and proposed grading as indicated in the official record at Monterey County HCD - Building Services. staking shall be verified at the grading pre-site inspection by the grading inspector. (HCD - Planning and HCD - Building Services)

Compliance or Monitoring Action to be Performed:

Prior to the pre-site inspection, the Owner/Applicant shall stake the easement(s) and proposed grading with 18" stakes at intervals as necessary to clearly delineate the The staking shall be consistent with recorded easement lines easement and grading. and proposed grading as indicated in the official record at Monterey County HCD -Building Services and shall be verified by the grading inspector at the pre-site inspection.

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#### 13. PD047 - DEMOLITION/DECONSTRUCTION (MBUAPCD RULE 439)

#### Responsible Department:

#### RMA-Planning

#### Condition/Mitigation Monitoring Measure:

In accordance with Monterey Bay Unified Air Pollution Control District Rule 439, construction plans shall include "Demolition and Deconstruction" notes that incorporate the following work practice standards:

- 1. Sufficiently wet the structure prior to deconstruction or demolition. Continue wetting as necessary during active deconstruction or demolition and the debris reduction process;
- 2. Demolish the structure inward toward the building pad. Lay down roof and walls so that they fall inward and not away from the building;
- 3. Commencement of deconstruction or demolition activities shall be prohibited when the peak wind speed exceeds 15 miles per hour.

All Air District standards shall be enforced by the Air District.

(HCD - Planning)

#### Compliance or Monitoring Action to be Performed:

Prior to the issuance of a demolition permit, if applicable, the Owner/Applicant/Contractor shall incorporate a "Demolition/Deconstruction" note on the demolition site plan that includes, but is not limited to, the standards set forth in this condition.

During demolition, the Owner/Applicant/Contractor shall obtain any required Air District permits and the Air District shall conduct all deconstruction or demolition inspection activities as required by the Air District.

#### 14. PD050 - RAPTOR/MIGRATORY BIRD NESTING

#### Responsible Department:

#### RMA-Planning

#### Condition/Mitigation Monitoring Measure:

Any tree removal activity that occurs during the typical bird nesting season (February 22-August 1), the County of Monterey shall require that the project applicant retain a County qualified biologist to perform a nest survey in order to determine if any active raptor or migratory bird nests occur within the project site or within 300 feet of proposed tree removal activity. During the typical nesting season, the survey shall be conducted no more than 30 days prior to ground disturbance or tree removal. If nesting birds are found on the project site, an appropriate buffer plan shall be established by the project biologist. (HCD - Planning)

#### Compliance or Monitoring Action to be Performed:

No more than 30 days prior to ground disturbance or tree removal, the Owner/Applicant/Tree Removal Contractor shall submit to HCD -Planning a nest survey prepare by a County qualified biologist to determine if any active raptor or migratory bird nests occur within the project site or immediate vicinity.

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#### 15. PDSP001 - RESTORATION PLAN (NON-STANDARD)

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure:

In order to ensure successful restoration of previously disturbed native Dune scrub habitat on the site, the Owner/Application shall submit a final Restoration Plan incorporating the recommendations contained in the "Restoration Plan for 3141 17-Mile Drive July 2022" prepared by Patrick Regan, Consulting Biologist. Upon completion of the development, the area disturbed shall be restored to a condition to correspond with the adjoining area, in accordance with the goals and objectives set forth by the Consulting Biologist, and subject to the approval of the Chief of the HCD - Planning. Evidence of successful restoration shall be submitted to and approved by the Chief of the HCD - Planning prior to final of construction permits.

Compliance or Monitoring Action to be Performed: Prior to issuance of construction permits, the Owner/Applicant shall submit a restoration plan to HCD - Planning for review and approval.

Prior to final of construction permits, the Owner/Applicant shall submit evidence by a qualified biologist demonstrating implementation of the restoration activities took place in accordance with the approved plan and have been successful to HCD - Planning for review and approval.

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#### 16. PDSP002 – LANDSCAPE PLAN & MAINTENANCE (MPWMD AND DEL MONTE FOREST) (NON-STANDARD)

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure:

The site shall be landscaped. Prior to the issuance of building permits, three (3) copies of a landscaping plan shall be submitted to the Chief of HCD - Planning consistent with the approved restoration plan (see Condition No. 15, PDSP001 - RESTORATION PLAN) and in accordance with Coastal Implementation Plan, Part 5, Regulations for Development in the Del Monte Forest Land Use Plan Area section 20.147.040.C.10. A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, species, and size of the proposed landscaping materials and shall include an irrigation plan. The plan shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan. Before occupancy, landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to the Monterey County HCD -Planning. All landscaped areas and fences shall be continuously maintained by the applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. (HCD - Planning)

Compliance or Monitoring Action to be Performed:

Prior to issuance building permits, the Owner/Applicant/Licensed Landscape Contractor/Licensed Landscape Architect shall submit landscape plans and contractor's estimate to HCD - Planning for review and approval. Landscaping plans shall include the recommendations from the "Restoration Plan for 3141 17-Mile Drive Julv 2022" prepared by Patrick Regan, Consulting Biologist as applicable. accordance with Coastal Implementation Plan, Part 5, Regulations for Development in the Del Monte Forest Land Use Plan Area section 20.147.040.C.10, the use of plant species native to the Del Monte Forest shall be required in landscape materials. All landscape plans shall be signed and stamped by licensed professional under the following statement, "I certify that this landscaping and irrigation plan complies with all Monterey County landscaping requirements including use of native, drought-tolerant, non-invasive species; limited turf; and low-flow, water conserving irrigation fixtures."

issuance of building permits, the Owner/Applicant/Licensed Contractor/Licensed Landscape Architect shall submit one (1) set landscape plans of approved by HCD-Planning, a Maximum Applied Water Allowance (MAWA) calculation, and a completed "Residential Water Release Form and Water Permit Application" to the Monterey Peninsula Water Management District for review and approval.

Prior to issuance of building permits, the Owner/Applicant/Licensed Contractor/ shall submit an approved water permit from the MPWMD to HCD-Building Services.

to occupancy, the Owner/Applicant/Licensed Landscape Contractor/Licensed Landscape Architect shall ensure that the landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to Monterey County HCD - Planning.

On an on-going basis, all landscaped areas and fences shall be continuously maintained by the Owner/Applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition.

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#### 17. PW0031 - BOUNDARY SURVEY

Responsible Department: RMA-Public Works

Condition/Mitigation
Monitoring Measure:

Owner/Applicant shall have a professional land surveyor perform a boundary survey of the easterly boundary line(s) of the subject parcel and have said lines monumented.

Compliance or Monitoring Action to be Performed: Prior to foundation inspection, Owner/Applicant shall have a professional land surveyor survey and monument the easterly boundary line(s) of the subject parcel and provide evidence to the County Surveyor of conformance to the setbacks shown on the approved Site Plan. The surveyor shall be responsible for compliance with the requirements of Section 8762 of the California Business and Professions Code (PLS Act).

#### 18. CC01 INDEMNIFICATION AGREEMENT

Responsible Department: County Counsel-Risk Management

Condition/Mitigation Monitoring Measure:

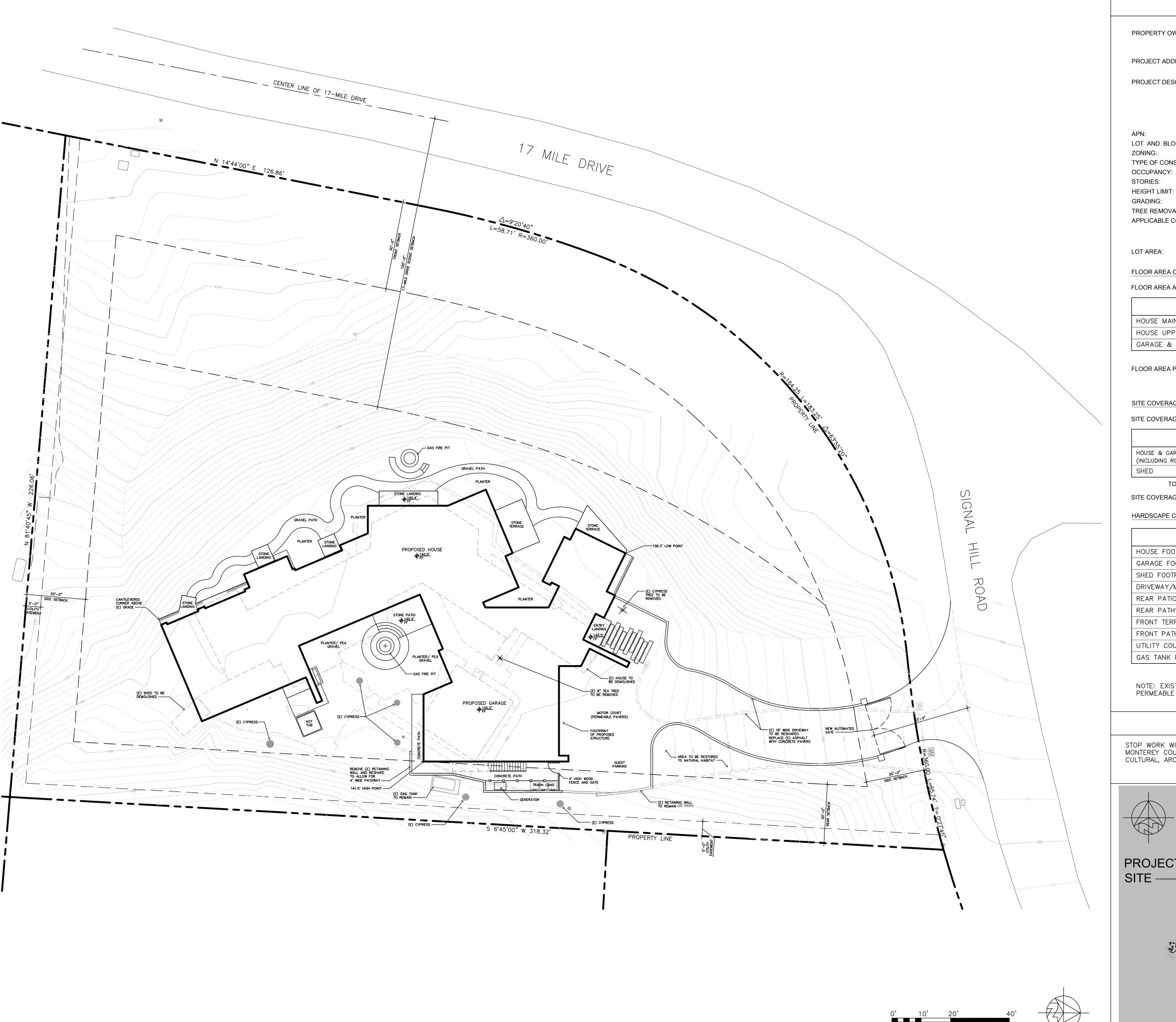
The property owner agrees as a condition and in consideration of approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. The County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his/her/its obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of property, filing of the final map, recordation of the certificates of compliance whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless. (County Counsel-Risk Management)

Compliance or Monitoring Action to be Performed:

Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, recording of the final/parcel map, or recordation of Certificates of Compliance, whichever occurs first and as applicable, the Owner/Applicant shall submit a signed and notarized Indemnification Agreement to the Office of County Counsel-Risk Management for review and signature by the County.

Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the Office of County Counsel-Risk Management

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# PROJECT DATA

PROPERTY OWNER:

5B SMD, LLC P.O.BOX 792

PEBBLE BEACH, CA 93953

3141 17-MILE DRIVE PEBBLE BEACH, CA 93953 PROJECT ADDRESS:

DEMOLITION OF (E) SINGLE-STORY SINGLE FAMILY RESIDENCE (SFR) WITH DETACHED GARAGE AND CONSTRUCTION OF A NEW TWO-STORY PROJECT DESCRIPTION:

SFR WITH ATTACHED GARAGE. OUTDOOR TERRACES/ PATIOS WITH GAS FIRE PITS (2). RESHAPE (E) DRIVEWAY AND REPLACE ASPHALT WITH PERMEABLE CONCRETE PAVERS. NEW AUTOMATED GATE. EXISTING MATURE CYPRESS TREES TO REMAIN.

008-261-003

LOT AND BLOCK: ZONING: LDR/1.5-D(CZ)TYPE OF CONSTRUCTION:

R-3, U STORIES:

GRADING: CUT - 0 C.Y. FILL - 0 C.Y.

2 TREES: TEA (8") AND CYPRESS (CLUSTER) TREE REMOVAL: APPLICABLE CODES: 2019 CBC, 2019 CRC, 2019 CFC, 2019 CPC, 2019 CEC,

2019 CMC, 2019 CALIFORNIA ENERGY CODE, 2019 CALIFORNIA

GREEN BUILDING CODE

1,324 AC. (57,658 S.F.) LOT AREA:

### FLOOR AREA CALCULATIONS

FLOOR AREA ALLOWED 17.5% = 10,090 S.f.

		EXISTING FLOOR AREA	PROPOSED FLOOR AREA
	HOUSE MAIN FLOOR	3,446 S.F.	5,396 S.F.
	HOUSE UPPER FLOOR	0 S.F.	1,195 S.F.
	GARAGE & MECH.	558 S.F.	1,399 S.F.
	TOTAL FAR	4.004 S.F.	7,990 S.F.

FLOOR AREA PROPOSED 14% = 7,990 S.F.

## SITE COVERAGE CALCULATIONS

SITE COVERAGE ALLOWED 15% = 8,649 S.F.

	EXISTING	PROPOSED
HOUSE & GARAGE FOOTPRINT (INCLUDING ROOF OVERHANG)	5,884 S.F.	7,795 S.F.
SHED	80 S.F.	
TOTAL COVERAGE	5,964 S.F.	7,795 S.F.

SITE COVERAGE PROPOSED 13.5% = 7,795 S.F.

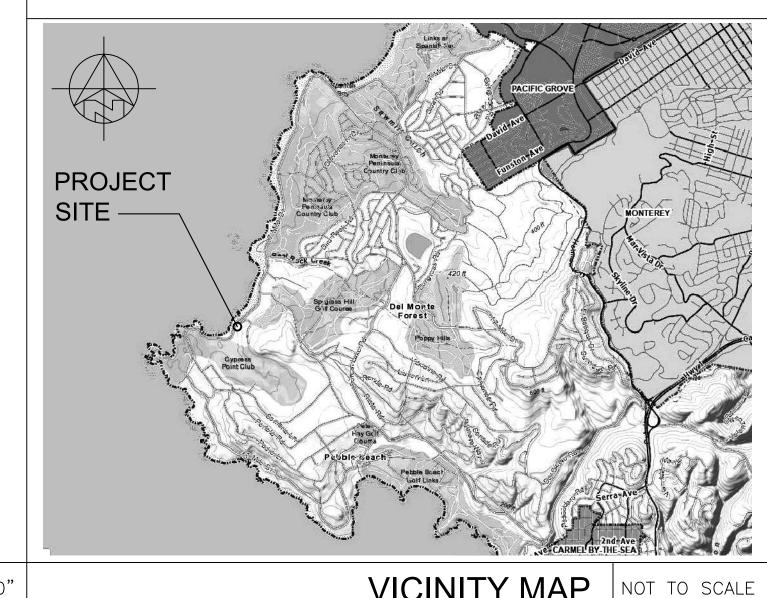
## HARDSCAPE COVERAGE CALCULATIONS

	EXISTING	TO REMOVE	PROPOSED	
HOUSE FOOTPRINT (INCL. NEW GARAGE)	3,446 S.F.	3,446 S.F.	6,933 S.F.	
GARAGE FOOTPRINT	557 S.F.	557 S.F.	0 S.F.	
SHED FOOTPRINT	80 S.F.	80 S.F.	0 S.F.	
DRIVEWAY/MOTOR COURT/PARKING	4,330 S.F.	4,330 S.F.	3,644 S.F.	permeable not counte
REAR PATIO(S)	1,920 S.F.	1,920 S.F.	475 S.F.	
REAR PATHWAYS	303 S.F.	303 S.F.	206 S.F.	
FRONT TERRACE(S)/LANDINGS	348 S.F.	348 S.F.	695 S.F.	
FRONT PATHWAYS (GRAVEL)	129 S.F.	129 S.F.	586 S.F.	permeable not counte
UTILITY COURT	0 S.F.	0 S.F.	245 S.F.	
GAS TANK PAD	48 S.F.	0 S.F.	48 S.F.	
TOTAL IMPERVIOUS COVERAGE	11,161 S.F.	11,113 S.F.	8,602 S.F.	

NOTE: EXISTING ASPHALT DRIVEWAY AND MOTOR COURT TO BE REPLACED WITH PERMEABLE CONCRETE PAVERS

# ARCHAEOLOGICAL NOTE

STOP WORK WITHIN 50 METERS (165 FEET) OF UNCOVERED RESOURCE AND CONTACT MONTEREY COUNTY RMA — PLANNING AND A QUALIFIED ARCHAEOLOGIST IMMEDIATELY IF CULTURAL, ARCHAEOLOGICAL, HISTORICAL OR PALEONTOLOGICAL RESOURCES ARE UNCOVERED



SITE PLAN

1/16"=1'-0"

VICINITY MAP

ANATOLY OSTRETSOV

P.O.BOX 2272 MONTEREY, CA 93942 (831) 682-1331 anatoly@aoarchdesign.com

4917 LEARY AVE. NW. SEATTLE, WA, 98107 T (206)735-7127

PLANNING REV.

10-07-21 LUAC REV. 10-14-21 OWNERS REV. 01-10-22 OWNERS REV.

SITE PLAN

DATE: 03-14-21 DESIGN APPROVAL

SHEET NO.

A1.0



ANATOLY OSTRETSOV

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4917 LEARY AVE. NW. SEATTLE, WA, 98107

T (206)735-7127

06-18-21 PLANNING REV. 10-07-21 LUAC REV.

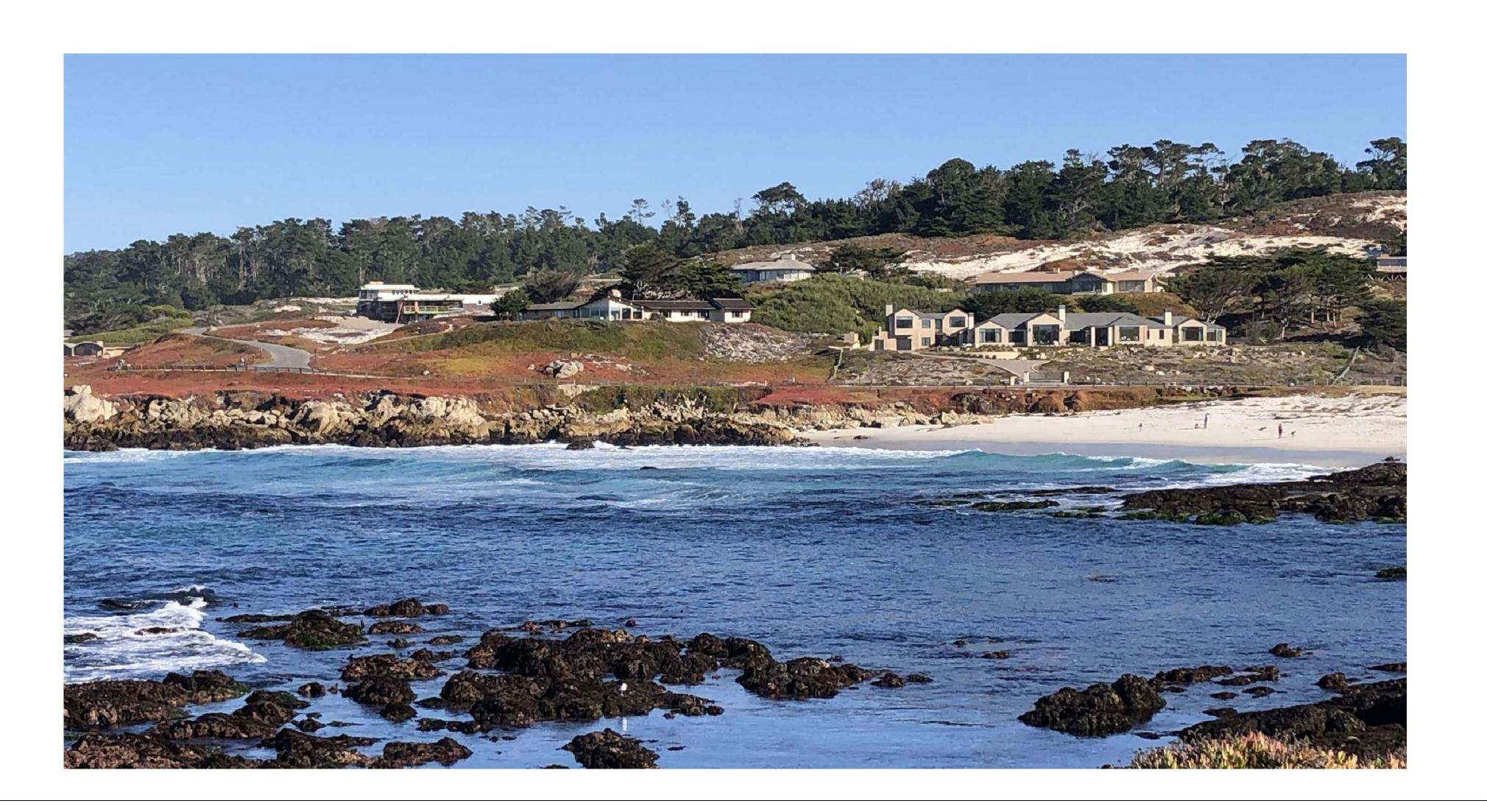
■ 10-14-21 OWNERS REV. 1-10-22 01-10-22 OWNERS REV.

> SITE PLAN SLOPE STUDY

DATE: 03-14-21

DESIGN APPROVAL

SHEET NO. A1.1



**EXISTING RESIDENCE** 



P.O.BOX 2272 MONTEREY, CA 93942 (831) 682-1331 anatoly@aoarchdesign.com

4917 LEARY AVE. NW. SEATTLE, WA, 98107 T (206)735-7127

06-18-21 PLANNING REV. 10-07-21 LUAC REV. 10-14-21 OWNERS REV.

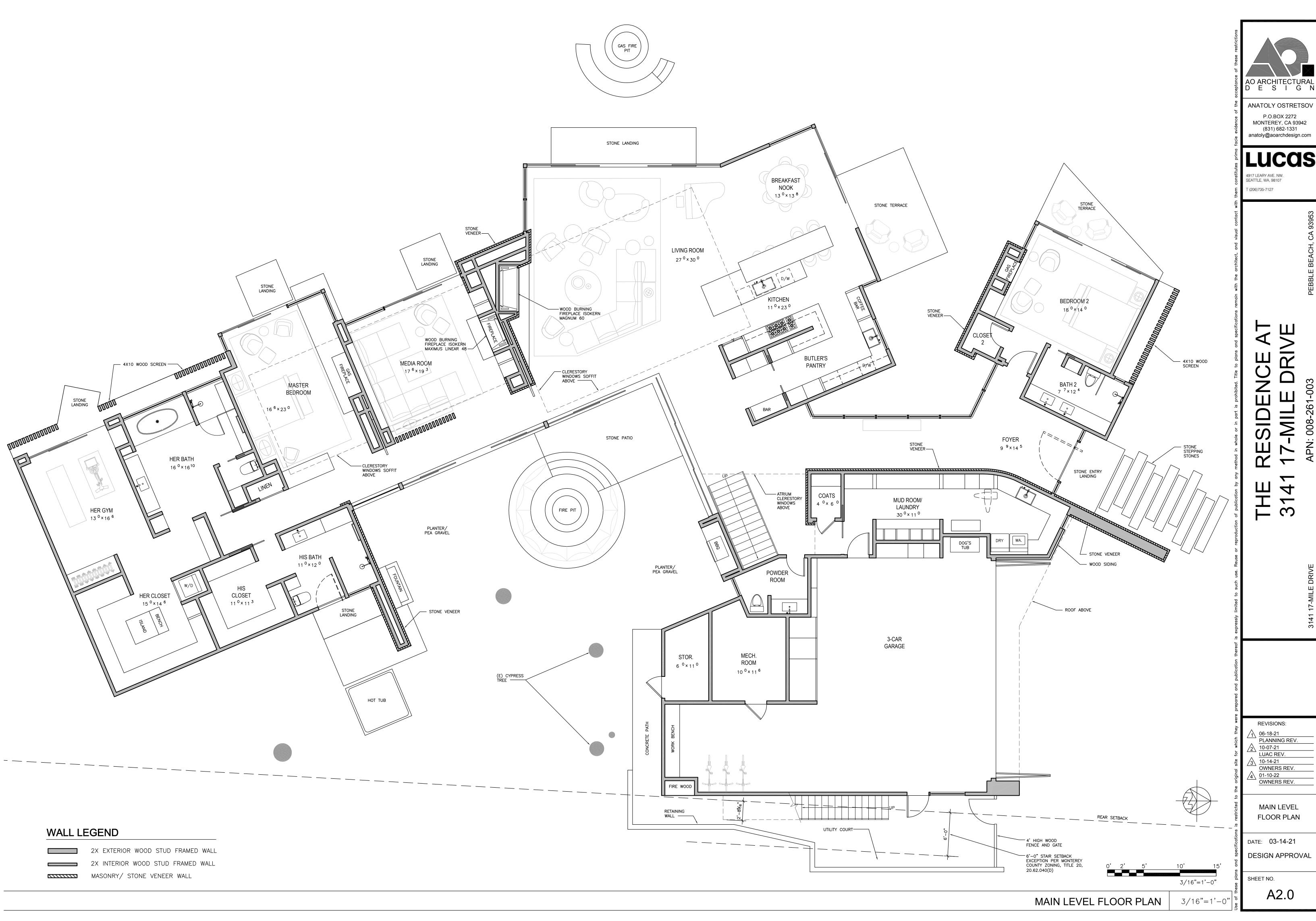
01-10-22 OWNERS REV.

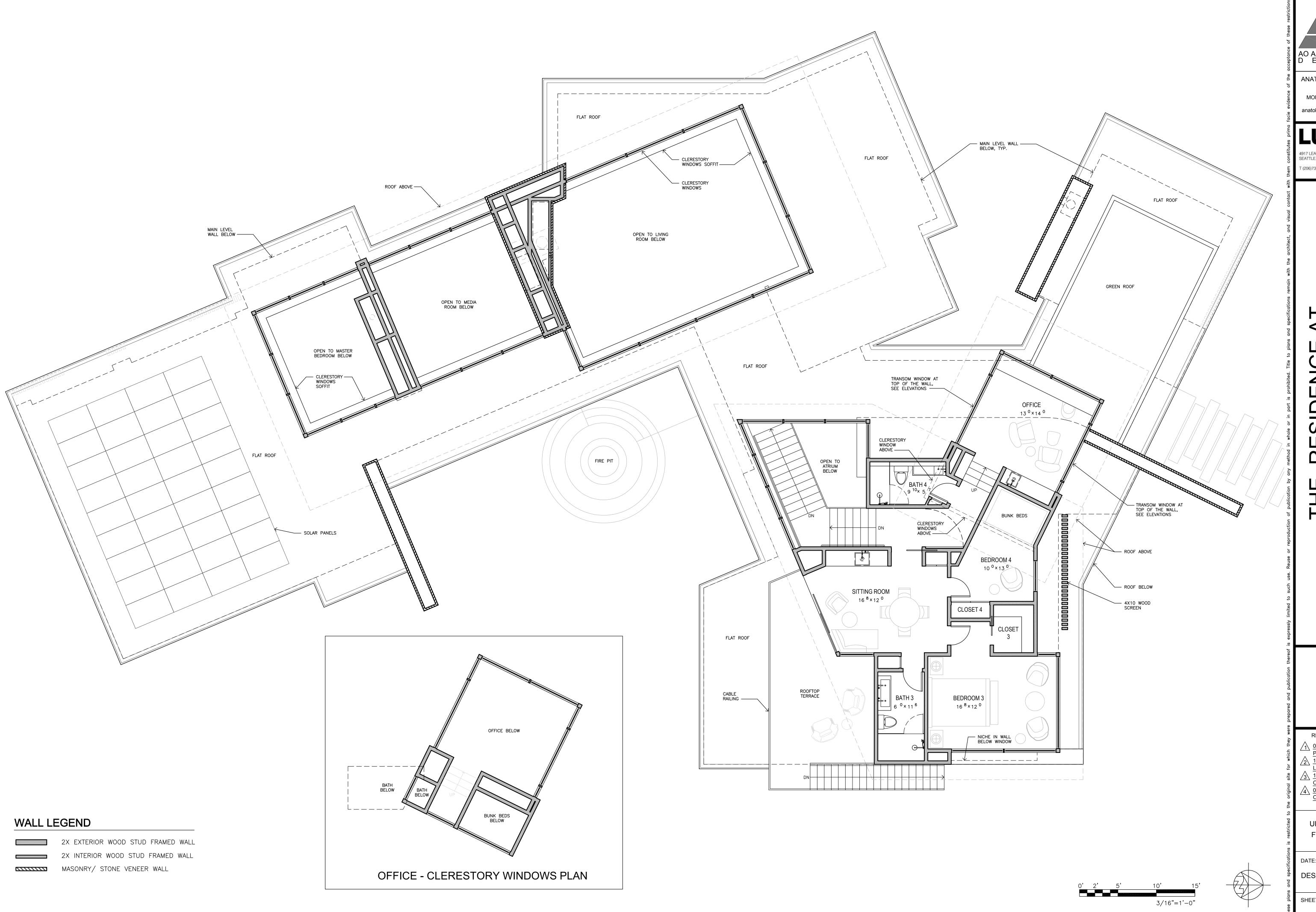
VISUAL

DATE: 03-14-21 DESIGN APPROVAL

SHEET NO.

A1.2





ANATOLY OSTRETSOV P.O.BOX 2272 MONTEREY, CA 93942 (831) 682-1331 anatoly@aoarchdesign.com

4917 LEARY AVE. NW. SEATTLE, WA, 98107

T (206)735-7127

REVISIONS:

06-18-21 PLANNING REV.

10-07-21 LUAC REV. 10-14-21 OWNERS REV. 01-10-22 OWNERS REV.

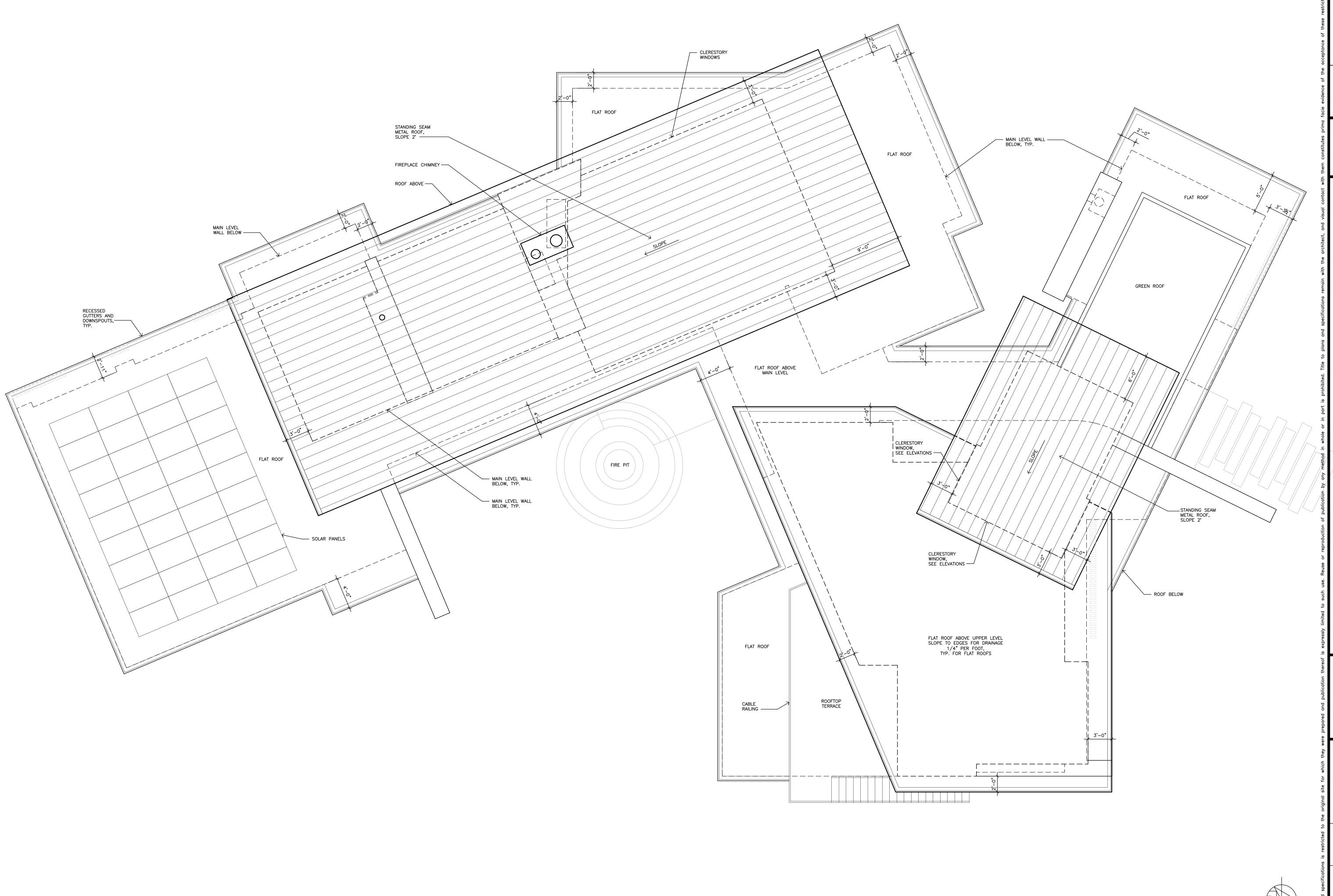
> UPPER LEVEL FLOOR PLAN

DATE: 03-14-21 DESIGN APPROVAL

SHEET NO.

A2.1

UPPER LEVEL FLOOR PLAN 3/16"=1'-0"



ANATOLY OSTRETSOV P.O.BOX 2272 MONTEREY, CA 93942 (831) 682-1331 anatoly@aoarchdesign.com

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REVISIONS:

06-18-21 PLANNING REV. 10-07-21 LUAC REV.

10-14-21 OWNERS REV. 01-10-22 OWNERS REV.

**ROOF PLAN** 

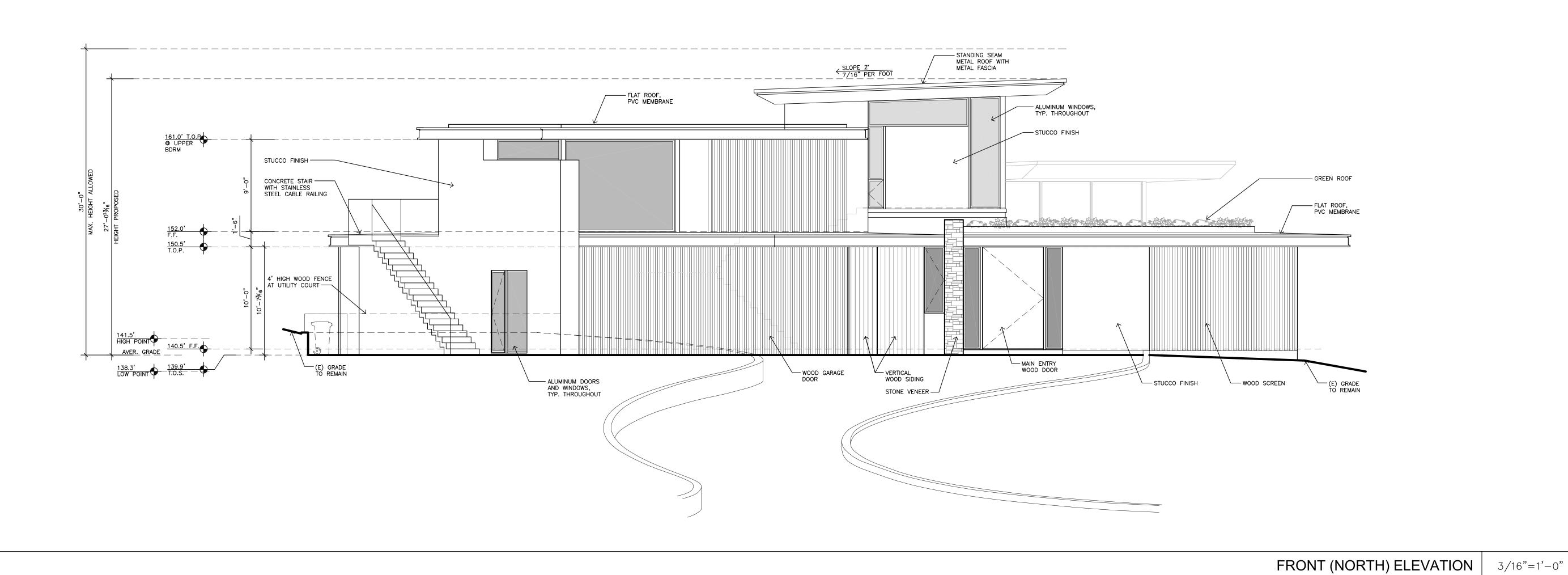
DATE: 03-14-21 DESIGN APPROVAL

SHEET NO.

A5.0

**ROOF PLAN** 3/16"=1'-0"

3/16"=1'-0"



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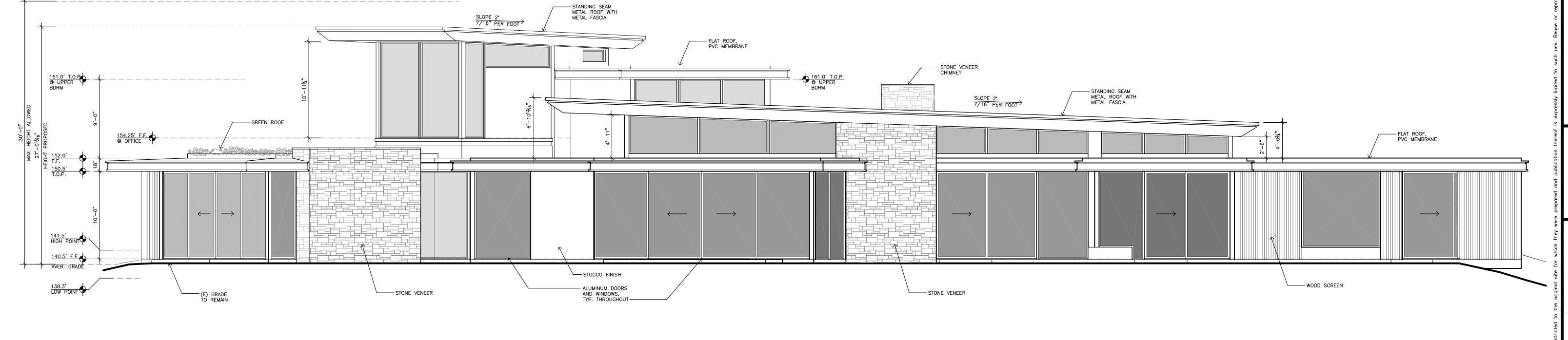
EXTERIOR **ELEVATIONS** 

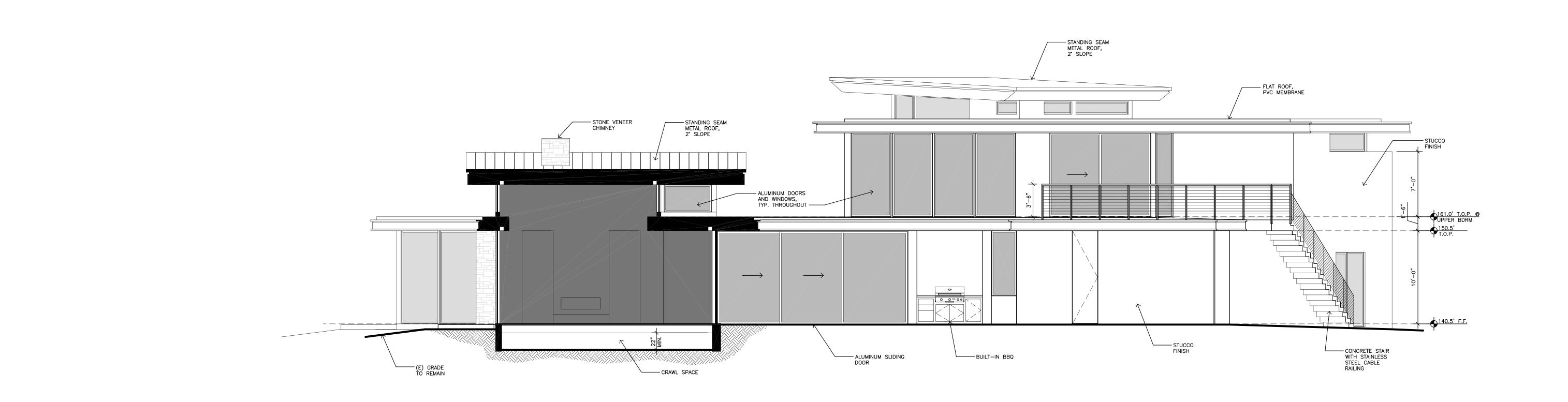
DATE: 03-14-21 DESIGN APPROVAL

SHEET NO.

A6.0

OCEAN SIDE (WEST) ELEVATION





TION 3/16"=1'-0" by the wind in whole of the whole of the

3141 17

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4917 LEARY AVE. NW. SEATTLE, WA, 98107

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3141 17-MILE DRIVE

REVISIONS:

REVISIONS:

06-18-21
PLANNING REV.

10-07-21 LUAC REV. 10-14-21 OWNERS REV. 01-10-22

OWNERS REV.
01-10-22
OWNERS REV.

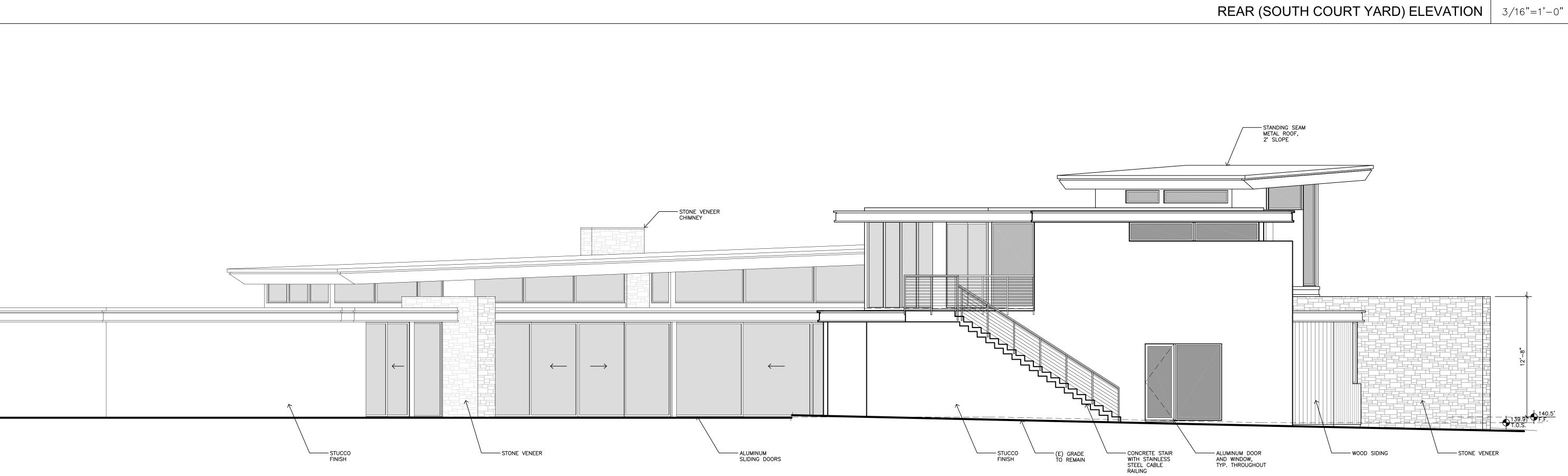
EXTERIOR ELEVATIONS

DATE: 03-14-21
DESIGN APPROVAL

SHEET NO.

A6.1

**EAST COURT YARD ELEVATION** 3/16"=1'-0"





## **COLOR AND MATERIAL SAMPLES** FOR A RESIDENCE AT 3141 17-MILE DRIVE, PEBBLE BEACH, CA 93953

APN: 008-262-003

Note: all the photographs are for reference only and don't represent actual design

WALLS: SMOOTH STUCCO

COLOR: KELLY-MOORE "PEBBLE BEACH" KM 5817





PEBBLE BEACH KM 5817



# WALLS: STONE VENEER (SPLIT FACE AEGEAN OR SIMILAR)





WALLS: WOOD SIDING

COLOR: NATURAL STAINED CEDAR





WINDOWS AND DOORS: METAL CLAD WOOD (KOLBE "VISTALUXE" OR EQUAL) COLOR: BLACK









ROOF: STANDING SEAM PAINTED ALUMINUM (OCM OR EQUAL) COLOR: GRAY QUARTZ ORE (NON-REFLECTIVE MATTE)







# FASCIA GUTTERS AND DOWNSPOUTS: COLOR: BLACK TO MATCH WINDOWS

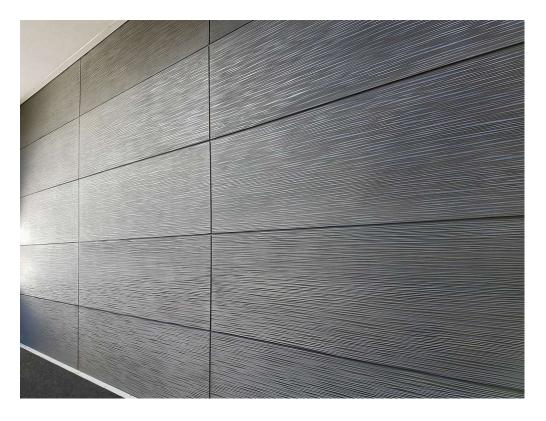






GARAGE DOORS: METAL (AXOLOTL OR EQUAL)

COLOR: DARK GRAY



RAILING: STAINLESS STEEL CABLE SYSTEM (ATLANTIS OR EQUAL)





RETAINING WALLS: CONCRETE BLOCKS

COLOR: EARTH GRAY



TERRACE PAVERS: CONCRETE (STONE) PAVERS

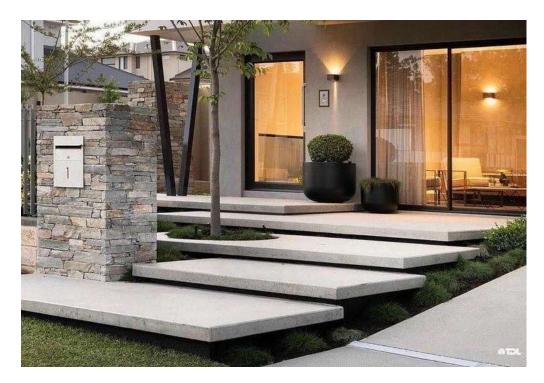
COLOR: EARTH GRAY







# STEPPING STONES AT LANDING: CONCRETE (STONE) SLABS



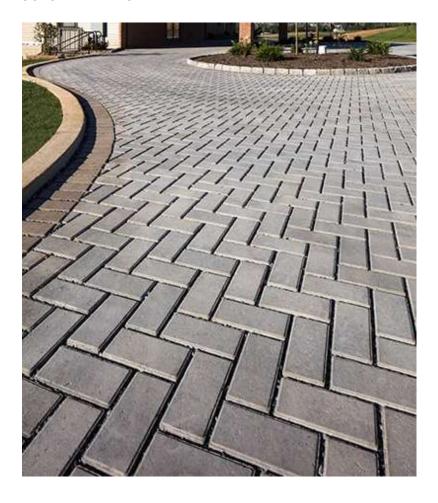




# PATHWAYS: PEA GRAVEL



DRIVEWAY AND MOTOR COURT PAVERS: PERMEABLE CONCRETE PAVERS **COLOR: EARTH GRAY** 





# RESTORATION PLAN

A voluntary restoration of native Dune scrub habitat in previously disturbed areas along the existing and revised driveway, to complement and enhance the project: demolition and rebuild of a single-family residence at 3141 17-mile Drive in Pebble Beach Ca

Patrick Regan
Consulting Biologist

#### Summary

5B investments has proposed to demolish and rebuild a single-family residence on 1.324-acre parcel at 3141 17-mile drive in Pebble Beach CA. Biological Surveys were conducted on the property on February 8 and April 29 of 2021. The earlier survey was a reconnaissance visit to see what the impact area would be and what potential habitat and special status species could be impacted. The second survey was specifically timed to coincide with the bloom period of several special status annual and perennial plants that occur in the Asilomar Dune complex from Signal Hill to Point Pios. No special status Plant or animal species was found on the site during either survey period.

The demolition of the existing house will include the house and the original hardscape elements on the building pad that was created for the original construction in the 1960's. The construction of the new house will cover that original impact area and include some new minor additions of hardscape that will create temporary impacts over the SE corner and several other odd-shaped areas along the outside edge of the original building pad. A section of the existing driveway will also be removed, and a 630 square foot section of dense ice plant will be cleared to allow the driveway to turn further toward the West. All together the architect has determined that 3578 square feet of new hardscape and house remodeling will be added to the project site. No impacts on special status plant or animal species are anticipated.

This restoration plan will cover the section of abandoned driveway and an additional section of dense ice plant just east of the existing driveway up to the eastern property line and through the Pebble Beach right of way to Signal Hill Road as well as a linear 150' by 30'section along the SW property line. The three areas selected (Area 1, approximately 1335 Square feet east of the existing and revised driveway, Area 2, approximately 1939 square feet on the west side of existing and revised driveway, and Area 3, approximately 4480 square feet on the SW corner of the lot) will provide approximately 7754 square feet of restored habitat to offset the roughly 3500 square feet of impacts; This will provide a net gain of Dune habitat on the property and create a contiguous section of dune habitat between the 3141 property and the easterly neighboring parcel on Signal Hill Road and along the SW property line with the restored habitat on the southern neighbor's property. While this restoration is being voluntarily offered above and beyond the level of anticipated impacts on the site, it does require some formal implementation to assure some level of success.

This document presents restoration measures to be implemented following demolition of the existing residence and construction of a new residence on the property at 3141 17-Mile Drive. It also outlines measures for short term monitoring and long-term maintenance of the restored areas and provides an implementation schedule. The areas targeted for restoration on the property are currently covered by ice plant or asphalt with a few scattered native perennial plants within and east of the existing driveway. The primary goal within the restoration area will be to reestablish native dune scrub vegetation.

#### **Measures Prior to and During Construction**

A qualified biologist<sup>1</sup> (Project Biologist) shall be retained by the property owner to guide and monitor all activities described in this restoration plan. The Project Biologist shall be selected and under contract prior to issuance of demolition/construction/building permits.

Prior to commencing any demolition or construction-related activities on the site, a pre-construction meeting shall be held with the architect or owner, construction manager, subcontractors, and the Project Biologist.

The Project Biologist shall inspect the site before demolition/construction and coordinate establishment of the construction boundary. The construction boundary shall be delimited with a 3–4-foot construction fence (snow fence or silt fence) to minimize impacts and avoid misinterpretation of the limits of work.

The Project Biologist shall periodically check the site during demolition/construction to confirm that all construction activities are limited to the area within the designated boundary and that no encroachment or other negative impacts occur outside of the designated impact area in the event that any encroachment is observed, the Project Biologist shall have the authority to stop work on the project and require remedial measures as he/she considers appropriate before work can recommence.

#### **Restoration Goal and Objectives**

The goal of this plan is to restore native dune scrub vegetation within the approximately 0.18-acre (7750 sq. ft.) restoration areas. along both sides of the revised driveway and along the southwestern corner of the lot, shown on Figure 1. The specific objectives for accomplishing this goal are as follows:

- Remove all non-native landscape and weedy species, including the extensive ice plant mat on the east side of the existing driveway east to the eastern property line, north to the Pebble Beach Company (PBC) right-of-way² along Signal Hill Road.
- Remove the organic layer of material below the iceplant mat to establish a clean substrate of native sand for the introduction of dune species.
- Plant selected areas with native dune scrub species.
- Use local plant sources for revegetation material. Plants shall be propagated from seed or cuttings collected in dune and coastal scrub habitats along 17 Mile Drive and within the Asilomar Dunes complex (i.e. dune areas from Point Piños to Fan Shell Beach, including the Signal Hill Dune area).
- Establish a monitoring program to track success of non-native vegetation control and establishment of native species.
- Establish an ongoing maintenance program for non-native plant control and other actions noted during monitoring.

# **Weed Removal**

<sup>&</sup>lt;sup>1</sup> From the Monterey County list of approved Biological Consultants

<sup>&</sup>lt;sup>2</sup> This total assumes continuing the eradication of ice plant out through the Pebble beach company Right-of-way along Signal Hill Road for which we will apply for an encroachment permit

Prior to demolition of the existing residence and construction of the new one, the iceplant on the east side of the existing driveway from Signal Hill Road to the house, shall be sprayed with a glyphosate-based herbicide, such as Roundup.

The dead and dried iceplant shall be removed within six weeks of spraying and disposed of at an offsite landfill location. The organic horizon within the 7750 square foot area shall be raked off and removed from the site. Any existing native dune and coastal scrub plants in the designated restoration area should be avoided and allowed to remain as elements of the restoration area. The Project Biologist shall coordinate with the property owners and contractor regarding shrubs and herbaceous plants designated to remain and shall oversee the weed removal.

#### Alternate method

In lieu of utilizing a glyphosate-based herbicide to kill the Iceplant in place, the entire 7750 square foot area shall be cleared by hand, with crew's hand pulling the living Ice plant and removing it from site and hauling it the Marina landfill. This method is slightly more labor-intensive but avoids any potential impacts to native species or neighboring property via drift or overspray of herbicide.

#### **Planting Area**

The restoration area will be revegetated with a planting mixture generally mimicking dune and coastal scrub vegetation in the nearby dune habitat fragments uphill from the project site along edges of the Spyglass Hill golf course. Native plants will be installed where the nonnative iceplant has been removed. Plant installation will be at the direction of the Project Biologist in collaboration with the owners and/or landscape designer(s). Species will be selected from the list recommended in Table 1. This list is based on nearby Dune scrub habitat and is meant to be a guide to target seed collection. Dominant species like Artemisia pycnocephala and Camissoniopsis cheiranthifolia are more common and easier to locate and collect seed from, but even small amounts of the other species will increase the diversity and habitat value of the restored area. A total of 200-250 plants (grown in 6" deep leach tubes or "stubby cones") will be needed to plant out the entire restoration area to attain good overall vegetative cover and leave some open sandy areas for the native annual and perennial species that may remain in the seedbank on site to germinate and reproduce. Plant material (e.g. seeds, cuttings, root divisions, seedlings, whole plants) will be collected from local sources within the Asilomar Dunes complex and along 17 Mile Drive. Seed collection will be made at the appropriate time for each targeted species. No seeds will be purchased from commercial seed suppliers. Plant installation will occur after the first rain has fallen early in the season and when more rain is projected. Seedling planting locations and spacing will be determined in the field by the Project Biologist in collaboration with the owners and landscape designer(s). The need for supplemental irrigation, fertilization or other relatively high maintenance plant establishment techniques will be reduced using appropriate native species at an appropriate life stage introduced at an appropriate time of year. However, supplemental, temporary irrigation may be used if the Project Biologist determines it is necessary.

At the completion of planting initial photographs of the entire restoration area will be taken to document the baseline conditions and a minimum of 8 photo-points will be established to use for subsequent documentation

and evaluation of the restoration area throughout the monitoring period.

Table 1: Recommended Plant Species for Restoration Area

Scientific Name	Common Name	Estimated quantity
Abronia latifolia	yellow sand verbena	10
Abronia umbellata	pink sand verbena	10
Ambrosia chamissonis	beach burr	30
Artemisia pycnocephala	beach sagewort	60
Armeria maritima	sea thrift	20
Astragalus nuttallii	rattle weed	20
Camissonia cheiranthifolia	beach primrose	30
Cardionema ramosissimum	sand mat	10
Carex pansa	dune sedge	20
Cryptantha leiocarpa	coast cryptantha	20
Dudleya caespitosa	sea lettuce	10
Ericameria ericoides	mock heather	20
Erigeron glaucus	seaside daisy	20
Eriogonum parvifolium	dune buckwheat	20
Eriophyllum staechadifolium	lizard tail	10
Eschscholzia californica var. maritima	coastal California poppy	20
Lessingia filaginifolia	California Corethrogyne	20
Poa douglasii	sand dune bluegrass	10
Polygonum paronychia	dune knotweed	10

#### **Monitoring and Maintenance Program**

Quarterly monitoring of the restoration area will occur during the first year following initial landscape removal and planting of native species, with biannual monitoring visits conducted for two additional years. The first monitoring visit will occur six months after completion of ice plant mat and nonnative landscape removal; subsequent visits during the first year will occur at three-month intervals. Two visits per year, once in the spring and once in the fall, will continue through years two and three. Monitoring will be conducted by the Project Biologist who will visually inspect the area to evaluate the following:

- Regeneration of non-native species
- Regeneration of native species from existing seedbank
- Health and vigor of installed plants
- Plant cover deficiencies

The results of each monitoring visit will trigger maintenance activities. Such activities will be recommended by the Project Biologist and could include:

- Continued removal of non-native species
- Adjustments to plant palette in some areas
- Watering of installed plantings
- Installation of replacement plantings

During the first summer following completion of initial landscape removal and native species planting, quantitative data will be collected to track the progress of the restoration efforts. The project biologist shall survey the Restoration area and note any mortality of planted species as well as presence of nonnative and native plant seedlings. A visual estimate of overall canopy cover of plants native and nonnative as well as individual percentage of native and percentage of nonnative species will be made. The Project Biologist will report to the Property owner and/or owners' representative on initial and ongoing maintenance activities, the results of the quantitative sampling, and provide recommendations for on-going management of the area including replanting and weed control as necessary.

#### Success criteria

# Survival of container grown plants

- Year 1 90% survival of container grown plants
- Year 2 90% survival of container grown plants

Final - 80% survival of container grown plants (It is assumed that "survivors in year 3 will have gained in canopy cover significantly to offset any mortality losses)

#### **Overall vegetative cover**

- Year 1 25% of restoration area occupied by vegetation
- Year 2 40% of restoration area occupied by vegetation
- Final 50% of restoration area occupied by vegetation

### Native Plant cover (including both planted and "volunteer" native plants

- Year 1 80% of total vegetative cover from native species
- Year 2 90% of vegetative cover from native species
- Final 95% of vegetative cover from native species

Failure to meet success criteria in first or second year will trigger requirement for additional planting and or weed eradication in subsequent year. Failure to meet Final success criteria will trigger a requirement for additional planting and or weed eradication and an additional year of monitoring or until all success criteria are met.

#### **Implementation Schedule**

Following is an estimated implementation schedule for the Restoration work. This schedule is season dependent both for seed collection and ideal timing of iceplant removal and new planting and may not match up perfectly with the demolition and construction schedule. Thus, it should be subordinate to the demolition and construction schedule even if it requires the bulk of the weed eradication and subsequent planting toward the end of the project.

**Table 2: Implementation Schedule** 

TASKS	TIMING	
Select Project Biologist and installation contractor	Prior to issuance of demolition/grading permits.	
Inform construction crews of sensitive habitat areas and install protective fencing around exterior of construction area	Prior to initiation of demolition or ground-disturbing activities	
Monitor construction activities	Weekly during ground-disturbance activities.	
Spray iceplant mat <sup>3</sup>	September – October when native annuals and perennials have already dropped seed and before the rainy season	
Alternate 1 -Hand remove living ice plant	July through November	
Collect native plant seeds	July through November <sup>4</sup>	
Grow native plants in nursery	October through following summer	
Install nursery plants in	October through February as	
restoration area	directed by Project Biologist	
Monitor habitat in restoration area	Quarterly for one year, biannual for two subsequent years, beginning six months after initial removal of exotics	
Initial maintenance of restoration area	As directed by Project Biologist for first three years following implementation of restoration plan	
Quantitative data collection in	Annually in the fall for three years	
restoration area	following initial restoration activities	
Prepare monitoring report for	At the end of the three-year monitoring	
restoration area	period	
Long-term management and maintenance of restoration area	By homeowner as recommended by Project Biologist to meet long-term restoration objectives.	

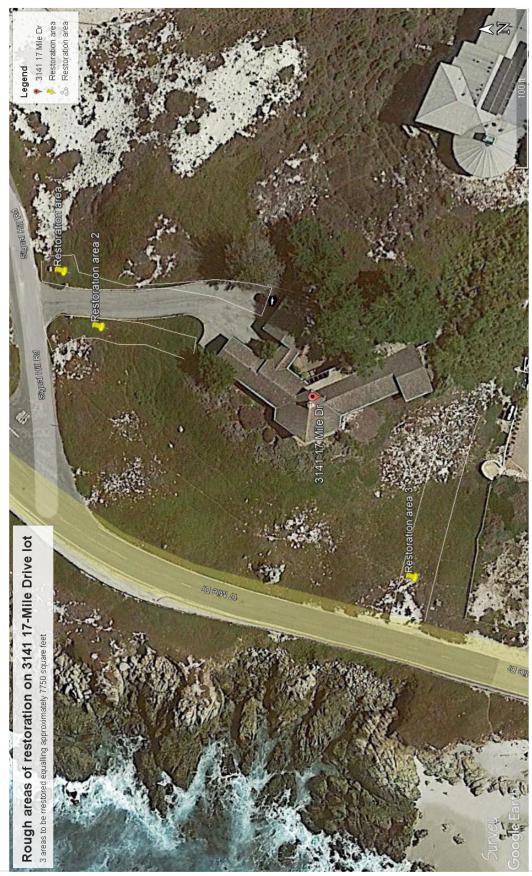
<sup>&</sup>lt;sup>3</sup> If herbicide option is implemented it should be on a calm, wind free day

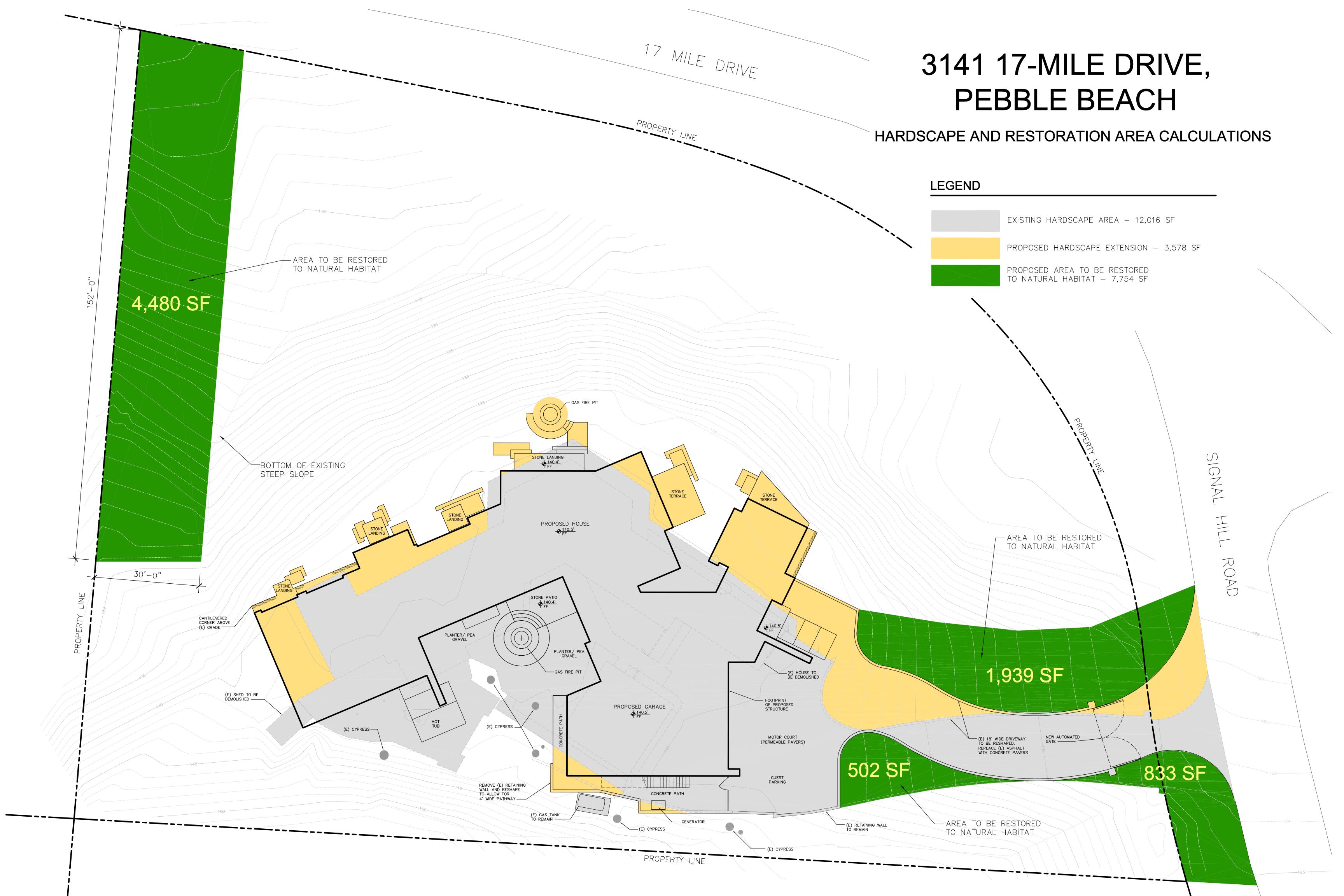
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<sup>&</sup>lt;sup>4</sup> If Construction schedule delays restoration plan implementation past the first summer, it is recommended to initiate seed collection as soon as possible to allow for maximum opportunity to assure available plants for when planting can occur.



Figure 1: View of existing driveway and iceplant covering areas on either side. The new driveway will curve to the right about halfway up





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